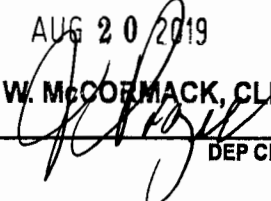


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

AUG 20 2019

JAMES W. MCCORMACK, CLERK

By:  DEP CLERK


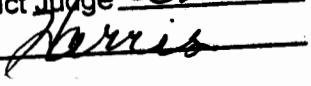
THE CINCINNATI SPECIALTY UNDERWRITERS
INSURANCE COMPANY

PLAINTIFF

V.

NO. 4:19cv586-BRW

CLINTON WILLIAM HOLLAND
REVOCABLE TRUST UAD
AUGUST 9, 2010; CLINTON WILLIAM
HOLLAND, INDIVIDUALLY AND AS
TRUSTEE OF CLINTON WILLIAM
HOLLAND REVOCABLE TRUST
UAD AUGUST 9, 2010; ALLISON HOLLAND;
AND KALOB FRANKE

This case assigned to District Judge 
and to Magistrate Judge 

DEFENDANTS

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW Plaintiff, the Cincinnati Specialty Underwriters Insurance Company (hereinafter "Cincinnati"), by and through its attorneys, Barber Law Firm PLLC, and for its Complaint for Declaratory Judgment, states:

1. This is a Complaint for Declaratory Judgment brought pursuant to Ark. Code Ann. § 16-111-101, in which Cincinnati seeks a declaration from this Court of its contractual obligations regarding an insurance contract between Cincinnati and Defendant Clinton William Holland Revocable Trust UAD.

2. This action will resolve a dispute as to whether Cincinnati must provide a defense or indemnity to Clinton William Holland Revocable Trust UAD in an underlying suit brought by Kalob Franke. In the underlying matter, Franke alleges negligence, including failure to warn, negligent hiring, negligent retention, and negligent supervision/training. A copy of the complaint

filed in *Franke v. Clinton William Holland Revocable Trust UAD August 9, 2010, et al.*, Circuit Court of Pope County, Arkansas, Civil Division, 58CV-19-75 (“the underlying matter”) is attached as Exhibit A.

PARTIES, JURISDICTION, AND VENUE

3. Cincinnati is an Ohio insurance company authorized to do business in Arkansas and with its principal place of business in Fairfield, Ohio.

4. Separate Defendant Clinton William Holland Revocable Trust UAD August 9, 2010 is a trust created pursuant to Arkansas law. The trustee is Clinton William Holland, a resident of Johnson County, Arkansas. The Trust is the owner of real property located in Johnson County, Arkansas, more specifically, an event venue called “Meetin on 64” located on Highway 64, Clarksville, Arkansas 72830.

5. Separate Defendant Clinton William Holland is a resident of Johnson County, Arkansas, and the settlor, beneficiary, and trustee of the Clinton William Holland Revocable Trust UAD August 9, 2010. As such, the Trust is not a separate legal entity, simply an alter ego of Clinton William Holland.

6. Separate Defendant Allison Holland is a resident of Johnson County, Arkansas.

7. Separate Defendant Kalob Franke is a resident of Pope County, Arkansas.

8. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship among the parties and the amount in controversy exceeds the \$75,000 jurisdictional limit for diversity jurisdiction.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

GENERAL FACTS

10. Though this Plaintiff does not admit or concede these claims or allegations, the following statements are facts as alleged in the underlying matter (Exhibit A):

...

6. Kalob Franke was an invitee, attendee and patron of "Meetin on 64," an event venue in Clarksville, Arkansas, during an event held on October 20, 2018, the evening of Arkansas Tech University's homecoming football game. Hundreds of people, including Franke, attended this event.
7. While attending the event at this location, one or more guns discharged randomly into the crowd. Franke was shot twice.

...

12. On the morning of October 21, 2018, at approximately 12:54 a.m., in the middle of the ongoing event, gunshots were fired inside the venue. It is unknown who fired the shots. It is unknown whether the shots were fired intentionally or accidentally. It is unknown how or why the shots were fired. No one has been arrested or charged with anything in connection with the discharge of a weapon at this event. What is known is that Kalob Franke and at least one other patron, attendee and invitee at the event were shot.
13. Kalob Franke has no idea who fired the shots or why they were fired. He was dancing to music at the time the shots were fired, and the next thing he remembers is feeling the pain of the gunshots as he was lying on the floor. He was transported by ambulance to a local hospital and airlifted to St. Vincent Hospital in Little Rock. Kalob Franke is now paralyzed from the waist down as a result of one of the gunshots.
14. Upon information and belief, whoever and however the weapon(s) was discharged, the injury to Kalob Franke was not intentional.

11. Cincinnati issued Commercial General Liability Policy, Number CSU0108088, to Clinton W. Holland Revocable Trust UAD for the policy period of December 13, 2017, through December 13, 2018. The Policy, declaration pages, and endorsements are attached hereto and made a part hereof as Exhibit B.

12. The insuring agreement in the policy (Policy, Exhibit B) states:

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of 'bodily injury' or 'property damage' to which this insurance applies. We will have the right and duty to defend the insured against any 'suit' seeking those damages. However, we will have no duty to defend the insured against any 'suit' seeking damages for 'bodily injury' or 'property damage' to which this insurance does not apply. We may, at our discretion, investigate any 'occurrence' and settle any claim or 'suit' that may result.

...

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The 'bodily injury' or 'property damage' is caused by an 'occurrence' that takes place in the 'coverage territory';
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who is an Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will

be deemed to have been known prior to the policy period.

12. Within the policy, there are a number of exclusions. The policy included exclusionary endorsement CSGA 301 03 16 EXCLUSION - ASSAULT OR BATTERY, which provides:

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability and Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

Assault Or Battery

This insurance does not apply to ‘bodily injury’, ‘property damage’ or ‘personal and advertising injury’ arising out of:

1. An actual or threatened assault or battery whether caused by or at the instigation or direction of any insured, their employees, patrons or any other person;
2. The failure of any insured or anyone else for whom any insured is legally responsive to prevent or suppress assault or battery; or
3. The failure to provide an environment safe from assault or battery, including but not limited to the failure to provide adequate security, or failure to warn of the dangers of the environment that could contribute to assault or battery; or
4. The failure to render or secure medical treatment or care necessitated by any assault or battery; or
5. The negligent investigation or reporting or failure to report any assault or battery to proper authorities; or
6. The negligent:
 - a. Employment;

- b. Supervision;
- c. Training;
- d. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by the Assault Or Battery exclusion above.

- B. For the purpose of this endorsement the words assault and battery are intended to exclude, but are not limited to, sexual assault.
- C. Exclusion 2.a. of the Commercial General Liability Coverage Form is deleted in its entirety and replaced by the following:
 - 2. a. Expected Or Intended Injury

'Bodily injury' or 'property damage' expected or intended from the standpoint of the insured.

13. Consistent with Arkansas law, assault is generally defined as the intentional causing of apprehension or fear that a harmful contact is about to be initiated. Battery is the intentional making of that harmful contact.

14. That Commercial General Liability Policy No. CSU0108088 does not apply to any damages arising out of the shooting incident on October 21, 2018, because the injuries sustained by Separate Defendant Kalob Franke were the result of assault or battery.

15. That Cincinnati has no obligation to defend or indemnify Clinton W. Holland Revocable Trust UAD, Clinton W. Holland, or any other person for any losses or damages arising from the shooting incident on October 21, 2018.

16. Application of the foregoing policy definitions and exclusions as stated in the Policy (Exhibit B) provide that no policy benefits are owed under the Cincinnati insurance policy

for the allegations set forth in the underlying matter. See Exhibit A.

17. For each of the reasons set forth above, Cincinnati seeks a determination that there is no coverage for any of the Defendants by reason of the policy language described in this Complaint and that Defendants are not entitled to a defense or indemnity for any of the allegations contained in the underlying matter See Exhibit A. Consequently, if the named insured, Clinton W. Holland Revocable Trust UAD, is not entitled to policy benefits, neither is the Plaintiff in the underlying matter, who is also a Defendant in the matter at hand.

18. Cincinnati reserves the right to amend this Complaint and reserves the right to rely on each and every provision, whether or not specifically identified in its Complaint, of the Cincinnati policy attached as Exhibit B.

19. Plaintiff demands the right to a jury trial.

WHEREFORE, Plaintiff, The Cincinnati Specialty Underwriters Insurance Company, prays that this Court enter a judgment declaring:

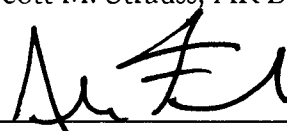
- a. The above referenced policy and endorsements attached as Exhibit B provide no policy benefits for the claims against Clinton W. Holland Revocable Trust UAD or Clinton W. Holland, Individually and as Trustee, arising out of the incident described in the underlying matter. See Exhibit A;
- b. Cincinnati is under no obligation to provide a defense to any Defendant, in connection with the lawsuit hereinabove referred to as the underlying matter. See Exhibit A;

- c. Cincinnati is under no obligation to satisfy any judgment rendered against Defendants Clinton W. Holland Revocable Trust UAD or Clinton W. Holland, Individually and as Trustee, arising out of the underlying matter. *See* Exhibit A;
- d. The herein named Defendant, Kalob Franke, is not entitled to monies or benefits from Cincinnati in the event he is successful in securing a judgment as against Defendants Clinton W. Holland Revocable Trust UAD or Clinton W. Holland, Individually and as Trustee, in reference to the underlying matter *See* Exhibit A; and,
- e. Award Cincinnati's costs, attorneys' fees, and all other just and proper relief to which it may be entitled.

Respectfully submitted,

BARBER LAW FIRM PLLC
*Attorneys for The Cincinnati Specialty
Underwriters Insurance Company*
425 West Capitol Avenue, Suite 3400
Little Rock, Arkansas 72201-3483
Telephone: 501-372-6175/ Facsimile: 501-375-2802
scotts@barberlawfirm.com
Scott M. Strauss, AR BIN 92009

By:



afranks@barberlawfirm.com
Adam D. Franks, AR BIN 2016124

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

THE CINCINNATI SPECIALTY UNDERWRITERS
INSURANCE COMPANY

PLAINTIFF

V.

NO. _____

CLINTON WILLIAM HOLLAND
REVOCABLE TRUST UAD
AUGUST 9, 2010; CLINTON WILLIAM
HOLLAND, INDIVIDUALLY AND AS
TRUSTEE OF CLINTON WILLIAM
HOLLAND REVOCABLE TRUST
UAD AUGUST 9, 2010; ALLISON HOLLAND;
AND KALOB FRANKE

DEFENDANTS

EXHIBIT A

The Complaint in underlying matter

2019 FEB 11 AM 9:29

FILED

IN THE CIRCUIT COURT OF POPE COUNTY, ARKANSAS
CIVIL DIVISION

KALOB FRANKE

PLAINTIFF

VS.

CASE NO. SCX-19-75CLINTON WILLIAM HOLLAND
REVOCABLE TRUST UAD AUGUST 9, 2010;
CLINTON WILLIAM HOLLAND, INDIVIDUALLY
AND AS TRUSTEE OF CLINTON WILLIAM
HOLLAND REVOCABLE TRUST UAD AUGUST 9, 2010

DEFENDANTS

COMPLAINT

Comes now Plaintiff, Kalob Franke, by and through his undersigned attorneys, Lacy Law Firm and Henry Law Firm, PLC, and for their Complaint against Defendant Clinton William Holland Revocable Trust UAD August 9, 2010, and Clinton William Holland, Individually and as Trustee of Clinton William Holland Revocable Trust UAD August 9, 2010, states as follows:

PARTIES, JURISDICTION & VENUE

1. Plaintiff Kalob Franke is an individual residing in Pope County, Arkansas.
2. Defendant Clinton William Holland Revocable Trust UAD August 9, 2010 ("the Trust") is a trust created pursuant to Arkansas law. The trustee of the Trust is Clinton William Holland, a resident of Johnson County, Arkansas. The Trust is the owner of real property located in Johnson County, Arkansas, more particularly described in Exhibit 1, a Warranty Deed with Holland Clinton Trust listed as the grantee filed in Book 2011017 at Page 203 in the land records

of Johnson County, Arkansas. The address of the property is Highway 64, Clarksville, AR 72830. The address is the location of an event venue called "Meetin on 64" where an event was held on the evening of October 20, 2018. Kalob Franke was shot multiple times at this event. He is now paralyzed as a result of the injuries sustained at the Defendant's property. The trustee of the Trust for purposes of service of process pursuant to Rule 4 of the Arkansas Rules of Civil Procedure is Clinton William Holland.

3. Clinton William Holland is the settlor, beneficiary, and trustee of the Clinton William Holland Revocable Trust UAD August 9, 2010. As such, the Trust is not a separate legal entity, but simply an alter ego of Clinton William Holland. Clinton William Holland was responsible for all ownership and management decisions concerning the "Meetin on 64" event venue at which the injuries giving rise to this lawsuit occurred.

4. Jurisdiction is appropriate given the residence of the parties and the fact that this action involves causes of action for personal injury.

5. Venue is proper in this court pursuant to Arkansas Code Ann. § 16-55-213(a)(3)(A) based upon the residence of the Plaintiff.

GENERAL ALLEGATIONS

6. Kalob Franke was an invitee, attendee and patron of "Meetin on 64," an event venue in Clarksville, Arkansas, during an event held on October 20, 2018, the evening of Arkansas Tech University's homecoming football game. Hundreds of people, including Franke, attended this event.

7. While attending the event at this location, one or more guns discharged

randomly into the crowd. Franke was shot twice.

8. Defendant, the owner of the "Meetin on 64" venue, authorized the event to take place at this location and, in fact, received consideration in exchange for permitting this event to take place. Despite knowing of the event, and despite knowing the number of likely patrons that would attend, that the attendees included underage persons, and that alcohol would be consumed on site during the event, Defendant did not ensure that adequate security was provided or that patrons or attendees were warned of the possible dangers associated with the lack of security at the site.

9. "Meetin on 64" created a dangerous situation for its invitees, did not take reasonable steps to protect its invitees, and ignored the danger to its invitees, by failing to have adequate security on hand and failing to have adequate policies and procedures in place to protect the patrons, such as Plaintiff, from injury on the premises.

10. "Meetin on 64" and its management knew and/or should have known the likelihood of injury to its invitees if the activities were not controlled and if invitees were not adequately warned of the risks created by inadequate security.

11. "Meetin on 64" and its ownership and management, including Defendant herein, provided insufficient and inadequate staffing to prevent patrons, attendees and invitees from causing injury to other patrons, attendees and invitees.

12. On the morning of October 21, 2018, at approximately 12:54 am, in the middle of the ongoing event, gunshots were fired inside the venue. It is unknown who fired the

shots. It is unknown whether the shots were fired intentionally or accidentally. It is unknown how or why the shots were fired. No one has been or arrested or charged with anything in connection with the discharge of a weapon at this event. What is known is that Kalob Franke and at least one other patron, attendee and invitee at the event were shot.

13. Kalob Franke has no idea who fired the shots or why they were fired. He was dancing to music at the time the shots were fired, and the next thing he remembers is feeling the pain of the gunshots as he was lying on the floor. He was transported by ambulance to a local hospital and airlifted to St. Vincent Hospital in Little Rock. Kalob Franke is now paralyzed from the waist down as a result of one of the gunshots.

14. Upon information and belief, whoever and however the weapon(s) was discharged, the injury to Kalob Franke was not intentional.

COUNT I- NEGLIGENCE

15. Paragraphs 1-14 are incorporated herein by reference as set forth word for word.

16. Defendants had a responsibility for the safety of "Meetin on 64's" patrons, attendees and invitees, and were under a duty to use ordinary care to maintain the premises in a reasonably safe condition. Defendants also had a duty to use reasonable care to protect patrons from reasonably foreseeable injury at the hands of other patrons.

17. Given the number of persons attending the event on October 20-21, 2018, the fact that alcohol was permitted on the premises, the fact that underage persons were attending

the event, the fact that underage persons were consuming alcohol, and the fact that inadequate security was being provided, the risk of harm from an event like the one that occurred was foreseeable. It was foreseeable that, in the absence of appropriate precautions and safeguards, bodily harm to the patrons, attendees and invitees, including Plaintiff, was a likely occurrence.

18. Defendants accepted the duty to provide a reasonably safe environment and to protect Plaintiff from an occurrence like the one that occurred. Defendants were negligent in failing to warn Plaintiff of this foreseeable risk of harm or to protect Plaintiff from such a foreseeable risk.

19. Defendants created an environment without reasonable policies or safeguards to protect Plaintiffs from known and foreseeable dangers and harm. Defendants unreasonably created and maintained an unsafe environment for Plaintiff.

20. The fact that Plaintiff was at risk of harm of the type suffered herein was certainly foreseeable to Defendants.

21. As a direct and proximate result of Defendants' failure to use ordinary reasonable care, Plaintiff was shot multiple times, suffering serious physical and emotional injuries more fully set forth below.

22. Defendants' actions were willful and wanton, and committed with a reckless disregard of the consequences. Defendants knew or ought to have known, in light of the surrounding circumstances, that their conduct would naturally and probably result in injury.

Defendants continued such conduct with malice and in reckless disregard of the consequences from which malice can be inferred. Accordingly, Plaintiff is entitled to punitive damages under Arkansas law.

23. Plaintiff is entitled to a punitive damage award for each and every separate occurrence of the wrongs described herein. Plaintiff is entitled to the maximum award allowed by law.

COUNT II- NEGLIGENCE
(Failure to Warn)

24. Paragraphs 1-23 are incorporated herein by reference as set forth word for word.

25. Defendants, the owner and manager of the "Meeting on 64" event venue, are in the business of hosting individuals, hosting parties, and allowing individuals to dispense and consume alcoholic beverages and intoxicating liquors upon their premises.

26. Defendants knew that they were accepting the duty to provide a reasonably safe environment and protect their patrons, and they assumed the higher duty of ordinary care in their patron's, attendees' and invitees' safety.

27. Defendants represented to the public that "Meetin on 64" was safe and an appropriate environment for entertainment events.

28. Defendants failed to warn that "Meetin on 64" was not a safe environment for their patrons, attendees and invitees.

29. Defendants failed to warn Plaintiff that they would not be providing adequate

protection and security at the event on October 20-21, 2018.

30. Defendants failed to warn Plaintiff that they did not have sufficient protocols, rules, guidelines, monitoring systems, or other structures in place to protect their patrons, attendees and invitees from foreseeable risks of harm such as the one that occurred at the event in question.

31. Defendants failed to warn Plaintiff that the event venue was unsafe to individuals and to their patrons, attendees, and invitees.

32. As a result of Defendants' failure to warn Plaintiff of known dangers and of dangers to which they should have been aware, including dangers that they created, Plaintiff has suffered damages more fully set forth below.

33. Defendants' failure to warn Plaintiff of the dangers is negligence and is a proximate cause of the damages asserted herein.

34. Defendants' actions were willful and wanton, and committed with a reckless disregard of the consequences. Defendants knew or ought to have known, in light of the surrounding circumstances, that their conduct would naturally and probably result in injury. Defendants continued such conduct with malice and in reckless disregard of the consequences from which malice can be inferred. Accordingly, Plaintiff is entitled to punitive damages under Arkansas law.

COUNT III - NEGLIGENCE HIRING

35. Paragraphs 1 through 34 are incorporated herein by reference as set forth word

for word.

36. Defendants knew, or in the exercise of ordinary care should have known, that the inadequate number, inexperience and lack of qualifications of any security staff would subject third parties to an unreasonable risk of harm.

37. Defendants were negligent in that they failed to exercise ordinary care to investigate and insure that positions, such as bouncers and security personnel, which had the duty to protect the patrons, attendees and invitees from the unreasonable risk of harm, were filled with sufficient, adequate, qualified, and trained personnel.

38. As a direct and proximate result of Defendants' negligence, Plaintiff suffered damages in an amount in excess of that required for federal diversity jurisdiction.

COUNT IV - NEGLIGENT RETENTION

39. Paragraphs 1 through 38 are incorporated herein by reference as set forth word for word.

40. Defendants knew, or in the exercise of ordinary care should have known, that "Meetin on 64's" security staff were insufficient, inadequate, and were inadequately trained and unqualified.

41. Despite this knowledge, Defendants retained insufficient and inadequate security staff and allowed them to perform their duty on the premises with knowledge of an unreasonable risk of harm to third parties, including Plaintiff.

42. The retention of insufficient and inadequate security staff was negligence and

a proximate result of the injuries suffered by Plaintiff.

43. Plaintiff is entitled to recover from the Defendants damages in an amount in excess of that required for federal diversity jurisdiction.

COUNT V - NEGLIGENT SUPERVISION/TRAINING

44. Paragraphs 1 through 43 are incorporated herein by reference as set forth word for word.

45. Defendants knew or should have known through the exercise of ordinary care that the insufficient, inadequate, and unqualified security staff would subject third parties to an unreasonable risk of harm.

46. Defendants provided no formal training, training manuals, materials or workbooks, or other training governing the conduct of the security staff in an effort to prevent an unreasonable risk of harm to patrons such as Plaintiff.

47. Defendants failed to exercise reasonable care to avoid harm to third-party persons by failing to supervise their security staff when the Defendants knew, or by exercising reasonable diligence should have known, of the foreseeable risk of harm to their patrons, including Plaintiff.

48. As a direct and proximate result of Defendants' negligence, Plaintiff is entitled to recover damages in an amount in excess of that required for federal diversity jurisdiction.

DAMAGES

49. Paragraphs 1 through 48 are incorporated herein by reference as set forth word

for word.

50. As a direct and proximate result of the improper actions described more specifically herein, Plaintiff is paralyzed from the waist down. He has suffered the following:

- (a) Medical expenses, both past and future;
- (b) Pain, suffering, and mental anguish, both past and future;
- (c) Loss of earnings in the past and the present value of future lost earnings;
- (d) Lost earning capacity;
- (e) Scars, disfigurement and visible results of injury;
- (f) Caretaking expenses, past and future; and
- (g) Other out-of-pocket expenses.

51. Plaintiff is entitled to recover in an amount determined by the jury for each of the above ailments or damages, as well as appropriate punitive damages as determined by the jury.

52. Plaintiff's damages listed above exceed that required to establish federal diversity jurisdiction.

53. Defendants knew, or should have known in light of the surrounding circumstances, that their conduct would naturally and probably result in injury and continued their conduct with malice or in reckless disregard of the consequences from which malice may be inferred. Defendants' actions are willful and wanton and are intolerable in a civilized

society. As a result, Plaintiff is entitled to recover punitive damages from Defendants in an amount to be determined by the jury.

54. Plaintiff hereby demands a trial by jury.

WHEREFORE, Plaintiff Kalob Franke prays that he have and recover damages as set forth herein, both compensatory and punitive, and all costs, attorney's fees, and other just and proper relief to which he is entitled.

Respectfully Submitted,

Brandon Lacy (#2003098)
Lacy Law Firm
202 West Meadow
Fayetteville, AR 72701
(479) 957-9645
brandon@lacylawfirm.com

-and-

Megan Henry (#2005157)
Henry Law Firm, PLC
202 West Meadow
Fayetteville, AR 72701
(479) 595-0909
megan@hhtlawfirm.com



Brandon W. Lacy

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

THE CINCINNATI SPECIALTY UNDERWRITERS
INSURANCE COMPANY

PLAINTIFF

V.

NO. _____

CLINTON WILLIAM HOLLAND
REVOCABLE TRUST UAD
AUGUST 9, 2010; CLINTON WILLIAM
HOLLAND, INDIVIDUALLY AND AS
TRUSTEE OF CLINTON WILLIAM
HOLLAND REVOCABLE TRUST
UAD AUGUST 9, 2010; ALLISON HOLLAND;
AND KALOB FRANKE

DEFENDANTS

EXHIBIT B

The Policy, declaration
pages, and
endorsements



The Cincinnati Specialty Underwriters Insurance Company

A Stock Insurance Company

Headquarters: 6200 S. Gilmore Road, Fairfield, OH 45014-5141

Mailing address: P.O. Box 145496, Cincinnati, OH 45250-5496

www.cinfin.com ■ 513-870-2000

COMMON POLICY DECLARATIONS

POLICY NUMBER: CSU0108088

PREVIOUS POLICY NUMBER:

NAMED INSURED AND MAILING ADDRESS:

Clinton W. Holland Revocable Trust UAD

This is a true and certified copy of the policy.

Refer to Named Insured Schedule CSIA409
9591 HIGHWAY 103
CLARKSVILLE AR 72830

Scott E. Hintze, Vice President

PRODUCER - Your contact for matters pertaining to this policy: 03-028

BancorpSouth Insurance Services, Inc.

PO Box 9180

Jonesboro AR 72403-9180

Broker: 1897317

CSU Producer Resources, Inc.

6200 South Gilmore Road

Fairfield, OH 45014-5141

Scott Hintze

Policy Period: From 12/13/2017 To 12/13/2018 AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.

Form of Business:

☒ Individual ☐ Partnership ☐ Corporation ☐ Joint Venture ☐ Limited Liability Company ☐ Other

Business Description: Event Hall, Arena

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

COVERAGE PARTS	PREMIUM
DEPOSIT PREMIUM	
Commercial General Liability	\$ 2,501.00
Terrorism Risk Insurance Extension Act	Excluded
Broker Fee	\$ 35.00
TOTAL POLICY PREMIUM	\$ 2,536.00
CANCELLATION MINIMUM EARNED PREMIUM IS 25.0% OF TOTAL POLICY PREMIUM.	
Surplus Lines Taxes	\$ 101.44
Stamping Fee	N/A
Other Taxes or Fees	N/A
TOTAL	\$ 2,637.44
Premium is subject to annual audit: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

NOTICE TO POLICYHOLDER:

This contract is registered and delivered as a surplus line coverage under the Surplus Lines Insurance Law, and it may in some respects be different from contracts issued by insurers in the admitted markets, and, accordingly, it may, depending upon the circumstances, be more or less favorable to an insured than a contract from an admitted carrier might be. The protection of the Arkansas Property and Casualty Guaranty Act does not apply to this contract. A tax of four percent (4%) is required to be collected from the insured on all surplus lines premiums.

FORMS AND ENDORSEMENTS ATTACHED TO THIS POLICY AT TIME OF ISSUE:

Refer to Forms and Endorsements Schedule CSIA406

THIS COMMON POLICY DECLARATIONS AND THE SUPPLEMENTAL DECLARATION(S) TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORM(S) AND ENDORSEMENT(S), IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

Signed by: _____ Date _____
(Authorized representative or countersignature, where applicable)

POLICY NUMBER CSU0108088

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NAMED INSURED SCHEDULE

This Schedule supplements the Declarations.

SCHEDULE

Named Insured: Clinton W. Holland Revocable Trust UAD

Forms and Endorsements Schedule

POLICY NUMBER: CSU0108088

POLICY EFFECTIVE DATE: 12/13/2017

NAMED INSURED: Clinton W. Holland Revocable Trust UAD

FORMS APPLICABLE

Forms Applicable - Common Forms

CSIA501 (07/14) Common Policy Declarations
CSIA409 (01/08) Named Insured Schedule
CSIA410 (03/08) Notice to Policyholders
CSIA403 (08/07) Special Provisions - Premium
CSIA404 (08/07) Service of Suit
CSIA300 (01/09) Exclusion of Certified Acts and Other Acts of Terrorism

Forms Applicable - Commercial General Liability

CSGA501 (04/08) Commercial General Liability Coverage Part Declarations
CSGA403 (10/07) Liability Premises Schedule
CSGA408 (04/08) Commercial General Liability Classification and Premium Schedule
CG0001TOC (04/13) Commercial General Liability Coverage Form Table of Contents
CG0001 (04/13) Commercial General Liability Coverage Form
CSGA401TOC (02/13) Changes to Commercial General Liability Coverage Form Table of Contents
CSGA401 (02/13) Changes to Commercial General Liability Coverage Form
CSGA402TOC (05/16) Contractors - Changes to Commercial General Liability Coverage Part Table of Contents
CSGA402 (05/16) Contractors - Changes to Commercial General Liability Coverage Part
CG2107 (05/14) Exclusion - Access or Disclosure of Confidential or Personal Information and Data-Related Liability
CG0300 (01/96) Deductible Liability Insurance
CG2644 (12/04) AR Changes - Non-Binding Arbitration
IL0199 (09/08) Arkansas Changes - Transfer of Rights of Recovery Against Others to Us
CG2426 (04/13) Amendment of Insured Contract Definition
CG2150 (04/13) Amendment of Liquor Liability Exclusion

Forms and Endorsements Schedule

POLICY NUMBER: CSU0108088

POLICY EFFECTIVE DATE: 12/13/2017

NAMED INSURED: Clinton W. Holland Revocable Trust UAD

FORMS APPLICABLE

Forms Applicable - Commercial General Liability

CSGA416 (04/08)	Independent Contractors Limitations of Coverage
CSGA418 (06/08)	Amendment of Pollutants Definition
CSGA361 (06/08)	Exclusion - Fungi or Bacteria
CSGA439 (11/08)	Amendment of Duties in the Event of Occurrence Offense Claim or Suit Condition
CG0142 (07/11)	Arkansas Changes
CG2147 (12/07)	Employment-Related Practices Exclusion
CG2149 (09/99)	Total Pollution Exclusion Endorsement
CG2196 (03/05)	Silica Or Silica-Related Dust Exclusion
CSGA301 (03/16)	Exclusion-Assault or Battery
CSGA358 (06/08)	Exclusion - Participants and Contestants
CSGA3015 (07/12)	Exclusion - Animal Participants
IL0017 (11/98)	Common Policy Conditions
IL0021 (09/08)	Nuclear Energy Liability Exclusion Endorsement
CSLL348 (01/08)	Limitation - No Stacking of Limits of Insurance
IL0003 (09/08)	Calculation of Premium
CSIA405 (08/09) -A-	Limitation of Coverage to a designated premises

THE CINCINNATI SPECIALTY UNDERWRITERS INSURANCE COMPANY

NOTICE TO POLICYHOLDERS

Please be advised that in your application for insurance you disclosed information to The Cincinnati Specialty Underwriters Insurance Company, a subsidiary of The Cincinnati Insurance Company. The information disclosed in the application and all information collected by this company or The Cincinnati Insurance Company, The Cincinnati Casualty Company or The Cincinnati Indemnity Company may be shared among all four companies.

POLICY NUMBER: CSU0108088

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL PROVISIONS - PREMIUM

This endorsement modifies the policy to add the following special provisions:

SCHEDULE

Deposit Premium and Minimum Premium

The minimum premium is equal to 100% of the deposit premium

Cancellation Minimum Earned Premium

Cancellation minimum earned premium is equal to 25 % of the total policy premium.

We will compute all premiums for coverage in accordance with our rules and rates.

The deposit premium is subject to audit when indicated as such on the declarations. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the due date on the bill.

If the earned premium is less than the deposit premium paid for the policy period, we will return the excess to the first Named Insured, subject to the minimum premium as defined below. If the earned premium is greater than the deposit premium paid for the policy period the additional premium shall become due and payable to the company.

Deposit premium is the premium stated in the Declarations payable in full at the inception of the policy.

Earned premium is computed by applying the policy rates to the actual premium basis for the audit period.

Minimum premium is the lowest amount to be retained as premium for the policy period. The minimum premium is equal to 100% of the deposit premium shown in the Declarations unless otherwise indicated in the Schedule above.

Cancellation minimum earned premium is the minimum amount to be retained as premium if you request cancellation of this policy. Cancellation minimum earned premium is equal to 25% of the total policy premium shown in the Declarations unless otherwise indicated in the Schedule above.

Any premium shown as flat charge is fully earned and is not subject to the cancellation minimum earned premium.

The first Named Insured must keep records of the information we need for premium computations, and send us copies at such times as we may request.

POLICY NUMBER: CSU0108088

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS

Schedule

Service of Process will be accepted by:

Cincinnati Specialty Underwriters
c/o Richard Hill
6200 South Gilmore Road
Fairfield, OH 45014

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Insured, will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such Court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.

It is further agreed that service of process in such suit may be made upon the party shown in the Schedule above and that in any suit instituted against the Company upon this policy, the Company will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The party named in the Schedule above is authorized and directed to accept service of process on behalf of the Company in any such suit or upon request of the Insured to give a written undertaking to the Insured that it or they will enter a general appearance upon the Company's behalf in the event such a suit shall be instituted.

Pursuant to any statute of any state, territory or district of the United States of America which makes provision therefore, the Company hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary arising out of this contract of insurance, and hereby designates the above named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS AND OTHER ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

All Commercial Lines Coverage Parts, Coverage Forms, Policies and Endorsements except Medical Professional Liability (professional liability forms insuring dentists, optometrists, nurses, and nursing homes, among others)

A. The following definitions are added with respect to the provisions of this endorsement:

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
 - a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
 - b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
2. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce the civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

B. The following exclusion is added:

**EXCLUSION OF CERTIFIED ACTS AND
OTHER ACTS OF TERRORISM**

We will not pay for any loss, injury or damage caused directly or indirectly by a "certified act of terrorism" or an "other act of terrorism".

Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

But with respect to an "other act of terrorism", this exclusion applies only when one or more of the following are attributed to such act:

1. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials;
2. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials;
3. The total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico and Canada exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions. Multiple incidents of "other acts of terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident;
4. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death;

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- b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ; or
5. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination.

Paragraphs **B.3.** and **B.4.** immediately preceding, describe the threshold used to measure the magnitude of an "other act of terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an "other act of terrorism", there is no coverage under this Coverage Part, Coverage Form, Policy or Endorsement, except as provided in this Endorsement.

However, Paragraph **B.4.** immediately preceding, is not to be used as a threshold to measure the magnitude of an "other act of terrorism" for the purposes of determining if this exclusion applies to a Commercial Property Coverage Part, Commercial Inland Marine Coverage Part, Machinery and Equipment Coverage Part, Commercial Crime Coverage Form, Commercial Crime Policy, Employee Theft and Forgery Policy, Farm Property Coverage Part, Government Crime Coverage Form, Government Crime Policy, Standard Property Policy, or Section **I** of the Businessowners Package Policy.

C. Exception Covering Certain Fire Losses

The following modifies insurance provided under the following: Commercial Inland Marine Coverage Part, Commercial Property Coverage Part, Farm Coverage Part and Standard Property Policy:

If a "certified act of terrorism" or an "other act of terrorism" causes fire damage to property that is subject to the Standard Fire Policy in a state that utilizes the Standard Fire Policy as its minimum fire coverage standard, we will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and / or Extra Expense coverages, or to the Legal Liability Coverage Form or the Leasehold Interest Coverage Form.

With respect to fire resulting from any one or more "certified acts of terrorism" under the federal Terrorism Risk Insurance Act, we will not pay any amounts for which we are not re-

sponsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

This Section **C.** does not apply to:

1. A Coverage Part for a "certified act of terrorism" or "other act of terrorism" that occurs in a state that allows an exception for fire resulting from terrorism; or
2. An Inland Marine Coverage Part for a "certified act of terrorism" or "other act of terrorism" that occurs in a state that allows a commercial inland marine exception,

to its Standard Fire Policy minimum fire coverage regulations.

D. Exception Covering Minimum Financial Responsibility

The following applies to the Business Auto Coverage Form, Business Auto Physical Damage Coverage Form, Garage Coverage Form, Motor Carrier Coverage Form, Single Interest Automobile Physical Damage Insurance Policy and Truckers Coverage Form if they are included in, or are part of, this Policy and if the "certified act of terrorism" or "other act of terrorism" causes loss in a state that requires compulsory or financial responsibility minimum limits apply to excluded acts of terrorism:

The exclusion stated in Section **B.** of this endorsement does not apply to:

1. Liability or Personal Injury Protection Coverage, but only up to the state compulsory or financial responsibility law minimum limits of insurance for each coverage; and
2. Uninsured and / or Underinsured Motorists Coverage, if applicable, but only up to the minimum statutory permitted limits of insurance for each coverage.

E. Application of Other Exclusions

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Part, Coverage Form, Policy or endorsement such as losses excluded by:

1. Exclusions that address war, warlike action, insurrection, rebellion, revolution, military action, nuclear hazard, nuclear materials, nuclear reaction, radiation, or radioactive contamination;

2. Exclusions that address pollutants, contamination, deterioration, fungi or bacteria; or

3. Any other exclusion,

regardless if the "certified act of terrorism" or "other act of terrorism" contributes concurrently or in any sequence to the loss, injury or damage.

F. Conformity With Statute

If any terms or conditions of this endorsement are in conflict with the laws of the jurisdiction under which this policy is construed, then such terms and conditions will be deemed changed to conform with such laws, but only

to the extent that such terms and conditions are otherwise covered by the Coverage Part, Coverage Form, Policy or Endorsement to which this endorsement applies.

G. Supersession

The exclusions for acts of terrorism in this endorsement supersede any offers of terrorism coverage.

H. Sunset Clause

If the federal Terrorism Risk Insurance Act expires or is repealed, then this endorsement is null and void for any act of terrorism except "other acts of terrorism" that takes place after the expiration or repeal of the Act.

THE CINCINNATI SPECIALTY UNDERWRITERS INSURANCE COMPANY
COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

Attached to and forming part of POLICY NUMBER: CSU0108088 Effective date: 12/13/2017

Named Insured: Clinton W. Holland Revocable Trust UAD

LIMITS OF INSURANCE

EACH OCCURRENCE LIMIT	\$ <u>1,000,000</u>	
DAMAGE TO PREMISES		
RENTED TO YOU LIMIT	\$ <u>100,000</u>	Any one premises
MEDICAL EXPENSE LIMIT	\$ <u>1,000</u>	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	\$ <u>1,000,000</u>	Any one person or organization
GENERAL AGGREGATE LIMIT		\$ <u>2,000,000</u>
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT		\$ <u>2,000,000</u>

FORMS AND ENDORSEMENTS APPLICABLE TO THIS COVERAGE PART:

Refer to Forms and Endorsements Schedule CSIA 406

COMMERCIAL GENERAL LIABILITY PREMISES SCHEDULE : Refer to CSGA 403

COMMERCIAL GENERAL LIABILITY CLASSIFICATION AND PREMIUM SCHEDULE: Refer to CSGA 408

TOTAL DEPOSIT PREMIUM \$ 2,501

Premium is subject to annual audit: ☒ Yes ☐ No

Commercial General Liability Premises Schedule

POLICY NUMBER: CSU0108088

POLICY EFFECTIVE DATE: 12/13/2017

☒ **if Supplemental
Declarations Is Attached**

NAMED INSURED: Clinton W. Holland Revocable Trust UAD

LOC.

ADDRESS

1 9500 HIGHWAY 64
CLARKSVILLE AR 72830

Commercial General Liability Classification and Premium Schedule

POLICY NUMBER: CSU0108088

POLICY EFFECTIVE DATE: 12/13/2017

NAMED INSURED: Clinton W. Holland Revocable Trust UAD

LOC NO.	CLASSIFICATION	CODE NO.	PREMIUM BASE A - Area B - Payroll S - Gross Sales U - Units	RATE		DEPOSIT PREMIUM	
				Premises Operations and All Other	Products/ Completed Operations	Premises Operations and All Other	Products/ Completed Operations
1	Halls (For-Profit)	44276	A, 25600	97.695	.000	\$2,501	
1	Stables - boarding, livery or racing	99111	B, If Any	7.335	.000	\$	
1	Rodeos	47318	S, If Any	12.872	.000	\$	

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COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES**COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;

- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone

else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored,

treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat,

smoke or fumes from a "hostile fire".

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is

owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or

expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as

damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a., b. and c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or

expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C - MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by

physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of

the insured and the interests of the indemnitee;

- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED**1. If you are designated in the Declarations as:**

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

(a) Owned, occupied or used by;

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred

before you acquired or formed the organization; and

- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph **2.** above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage **A**; and
 - b. Medical expenses under Coverage **C**
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or

temporarily occupied by you with permission of the owner.

7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;

- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

- (1) This insurance is excess over:
 - (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

- (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

- (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

- (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability.

- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

- (2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

- (b) The total of all deductible and self-insured amounts under all that other insurance.

- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow

this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this

Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
- (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

- 5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

- 9. "Insured contract" means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
- 10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- 11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises

you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;
- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

- (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 22. "Your work":
 - a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

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**CHANGES TO COMMERCIAL GENERAL LIABILITY
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CHANGES TO COMMERCIAL GENERAL LIABILITY COVERAGE FORM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

EXCLUSION - ADDITIONAL INSURED PRIOR KNOWLEDGE

- A.** The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability**:

This insurance does not apply to an additional insured added by attachment of an endorsement to this Coverage Part that is seeking coverage for a claim or "suit," if that additional insured knew, per the following paragraph, that "bodily injury" or "property damage" had occurred or had begun to occur, in whole or in part, prior to the policy period in which such "bodily injury" or "property damage" occurs or begins to occur.

An additional insured added by attachment of an endorsement to this Coverage Part will be deemed to have known that "bodily injury" or "property damage" has occurred or has begun to occur at the earliest time when that additional insured, or any one of its owners, members, partners, managers, executive officers, "employees" assigned to manage that additional insured's insurance program, or "employees" assigned to give or receive notice of an "occurrence," claim or "suit":

1. Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
2. Receives a written or verbal demand or claim for damages because of the "bodily injury," or "property damage";
3. First observes or reasonably should have first observed, the "bodily injury" or "property damage"; or
4. Becomes aware, or reasonably should have become aware, by any means other than as described in 3. above, that "bodily injury" or "property damage" had occurred or had begun to occur.

- B.** The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage B - Personal and Advertising Injury Liability**:

This insurance does not apply to an additional insured added by attachment of an endorsement to this Coverage Part that is seeking coverage for a claim or "suit," if that additional insured knew, per the following paragraph, that a "personal and advertising injury" offense had been committed or had begun to be committed, in whole or in part, prior to the policy period in which such "personal and advertising injury" was committed or began to be committed.

An additional insured added by attachment of an endorsement to this Coverage Part will be deemed to have known that a "personal and advertising injury" offense has been committed or has begun to be committed at the earliest time when that additional insured, or any one of its owners, members, partners, managers, executive officers, "employees" assigned to manage that additional insured's insurance program, or "employees" assigned to give or receive notice of an offense, claim or "suit":

1. Reports all, or any part, of the "personal and advertising injury" to us or any other insurer;
2. Receives a written or verbal demand or claim for damages because of the "personal and advertising injury";
3. First observes or reasonably should have first observed, the "personal and advertising injury"; or
4. Becomes aware, or reasonably should have become aware, by any means other than as described in 3. above, that a "personal and advertising injury" offense had been committed or had begun to be committed.

EXCLUSION - ASBESTOS

- A.** The following exclusion is added to Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability and Paragraph 2. Exclusions of Section I - Coverage B - Personal and Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

- a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of, attributable to, or any way related to "asbestos" in any form or transmitted in any manner.
- b. Any loss, cost or expenses arising out of the abating, testing for, moni-

toring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "asbestos," by any insured or by any other person or entity.

- B.** The following definition is added to the **Definitions** Section:

"Asbestos" means any type or form of asbestos, including but not limited to, asbestos, asbestos products, asbestos fibers, asbestos contained in any product or material, or a mixture or combination of asbestos and other dust or particles.

EXCLUSION - CROSS SUITS

- A.** The following exclusion is added to Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability and Paragraph 2. Exclusions of Section I - Coverage B - Personal and Advertising Liability:

2. Exclusions

This insurance does not apply to:

Cross Suits

- a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of any claim for damages by a Named Insured against another Named Insured.

EXCLUSION - PRIOR INJURY OR DAMAGE

- A.** The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury and Property Damage:

This insurance does not apply to any "bodily injury" or "property damage" that:

1. first occurred prior to the Effective date of this Coverage Part;
2. is alleged to be in the process of occurring as of the Effective date of this Coverage Part; or
3. is in the process of settlement, adjustment or "suit".

This exclusion applies to all continuing injury or damage:

1. arising from the same or similar cause, including continuous or repeated exposure to substantially the same general harmful conditions; or
2. at the same or adjacent location; or
3. from the same or similar work; or
4. from the same product or service.

- B.** The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal and Advertising Injury:

This insurance does not apply to "personal and advertising injury" that:

1. was first committed prior to the Effective date of this Coverage Part;
2. is alleged to be in the process of being committed as of the Effective date of this Coverage Part;
3. is in the process of settlement, adjustment or "suit".

This exclusion applies to all continuing injury or damage:

1. arising from the same or similar cause, including continuous or repeated exposure to substantially the same general harmful conditions; or
2. at the same or adjacent location; or
3. from the same or similar work; or
4. from the same product or service.

EXCLUSION - LEAD

- A.** The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability and Paragraph 2., Exclusions of Section I - Coverage B - Personal and Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

- a.** "Bodily injury," "property damage" or "personal and advertising injury" arising in whole or in part, out of the actual alleged, threatened or suspected

inhalation of, or ingestion of, absorption of, exposure to or presence of lead in any form.

- b.** Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of lead in any form, by any insured or by any other person or entity.

EXCLUSION OF NEWLY ACQUIRED ORGANIZATIONS AS INSURED

Paragraph 3. of Section II - Who Is An Insured does not apply and is deleted in its entirety.

EXCLUSION - PUNITIVE OR EXEMPLARY DAMAGES

- A.** The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability and Paragraph 2., Exclusions of Section I - Coverage B - Personal and Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Any claim of indemnification for punitive or exemplary damages. If a suit is brought against

any insured for a claim covered by this Coverage Part, seeking both compensatory and punitive or exemplary damages, we will provide a defense to such action. However, we will not have an obligation to pay for any costs, interest, or damages, attributable to punitive or exemplary damages. If state law provides for statutory multiple damage awards, we will pay only the amount of the award before the multiplier is added.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS - CHANGES TO COMMERCIAL GENERAL LIABILITY COVERAGE PART

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

EXCLUSION - BREACH OF CONTRACT

- A.** The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to any claim for "bodily injury" or "property damage" arising directly or indirectly from breach of express or implied contract, including breach of an implied in law or implied in fact contract. This exclusion does not apply to liability for damages that an insured would have in the absence of the contract.

EXCLUSION - BODILY INJURY TO CONTRACTORS' OR SUBCONTRACTORS' EMPLOYEES

- A.** The following exclusion is added to Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

"Bodily injury" to:

- a.** Any "employee" of any:
- (1)** "Contractor"; or
 - (2)** "Subcontractor"; and
- (a)** Arising out of and in the course of
- 1)** Employment; or
 - 2)** Performing duties related to the conduct of an insured's business or the business of a "contractor" or "subcontractor".

- b.** The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

- (1)** Whether an insured may be liable as an employer or in any other capacity; and
- (2)** To any obligation to share damages with or repay someone else who must pay damages because of the injury, including any obligation to pay damages by reason of the assumption of liability in an "insured contract" or agreement.

- B.** The following definitions are added and apply with respect to this endorsement:

"Contractor" and/or "Subcontractor" means a person, company or organization who agrees in any oral or written contract or agreement with any person or organization to undertake to perform work; to perform a service; or to complete a job.

"Employee" under this endorsement means any person who is hired for a wage, salary, fee or payment to perform work. "Employee" includes any leased worker or temporary worker, loaned worker, "volunteer worker", 1099 worker, "casual worker" or day laborer.

"Casual worker" means a person, other than a person furnished to you by a labor union, which acts at the direction of and within the scope of duties determined by any insured, and for whom any insured, or a labor leasing firm acting on behalf of any insured, does not withhold federal income taxes or pay federal unemployment tax.

EXCLUSION - EMPLOYER'S LIABILITY

- A. Exclusion e. of Paragraph 2. Exclusions of Section I - Coverages, Coverage A. Bodily Injury And Property Damage Liability is deleted and replaced by the following:**

"Bodily injury" to:

1. An "employee" of the insured arising out of and in the course of:
 - a. Employment by the insured; or
 - b. Performing duties related to the conduct of the insured's business; or
2. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph 1, above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages

because of the injury, including any obligation to pay damages by reason of assumption of liability in an "insured contract" or agreement.

- B. The following definitions are added and apply with respect to this endorsement:**

"Employee" under this endorsement means any person who is hired for a wage, salary, fee or payment to perform work. "Employee" includes any leased worker or temporary worker, loaned worker, "volunteer worker", 1099 worker, "casual worker" or day laborer.

"Casual worker" means a person, other than a person furnished to you by a labor union, which acts at the direction of and within the scope of duties determined by any insured, and for whom any insured, or a labor leasing firm acting on behalf of any insured, does not withhold federal income taxes or pay federal unemployment tax.

EXCLUSION - CONSTRUCTION MANAGEMENT ERRORS AND OMISSIONS AND CONTRACTORS PROFESSIONAL

- A. The following exclusion is added to Paragraph 2. Exclusions of Section I - Coverages, Coverage A. Bodily Injury And Property Damage Liability and Paragraph 2. Exclusions of Section I - Coverages, Coverage B. Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of:

- a. Construction management services on a project on which you serve as construction manager. However, this exclusion does not apply to "bodily injury" or "property damage" due to construction or demolition work done by you, your "employees" or your subcontractors.
- b. The rendering of or failure to render any contractor professional services

by you or on your behalf on a project on which you do not serve as construction manager, but only with respect to either or both of the following operations:

- (1) Providing engineering, architectural or surveying services to others; and
- (2) Providing, or hiring independent professionals to provide engineering, architectural or surveying services in connection with construction work you perform.

The following definitions are added and apply with respect to this endorsement:

1. Construction management services include:
 - a. Preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field

orders, change orders or drawings and specifications by any architect, engineer or surveyor; and

- b. Inspection, supervision, consulting, quality control, architectural or engineering activities done by or for you.

2. Contractor professional services include:

- a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys,

field orders, change orders or drawings and specifications; and

- b. Supervisory, consulting or inspection activities performed as part of any related architectural or engineering activities.

However, contractor professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with construction work you perform.

EXCLUSION - SUBSIDENCE OF LAND

- A.** The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability**:

2. Exclusions

This insurance does not apply to:

- a. "Bodily injury", "property damage", or "personal and advertising injury" caused by, resulting from, attributable to or contributed to, or aggravated by the subsidence of land as a result of landslide, mudflow, earth sinking or shifting, resulting from operations or completed operations of any insured or any subcontractor of any insured.

EXCLUSION - OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

- A.** The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability**:

2. Exclusions

This insurance does not apply to:

"Bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at any location for which a consolidated (wrap-up) insurance program has been provided by the prime contractor / project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

- a. Provides coverage identical to that provided by this coverage part;
- b. Has limits adequate to cover all claims; or
- c. Remains in effect.
- d. This exclusion does not apply if the consolidated (wrap-up) insurance program covering your operations described in the Schedule has been cancelled, nonrenewed or otherwise no longer applies for reasons other than the exhaustion of all available limits, whether such limits are available on a primary, excess or on any other basis. You must advise us of such cancellation, nonrenewal or termination as soon as practicable.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - ACCESS OR DISCLOSURE OF
CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY - LIMITED BODILY INJURY
EXCEPTION NOT INCLUDED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Exclusion 2.p. of Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

- p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or

used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- B. The following is added to Paragraph 2. Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

POLICY NUMBER: CSU0108088

COMMERCIAL GENERAL LIABILITY
CG 03 00 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DEDUCTIBLE LIABILITY INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

Coverage	SCHEDULE	
	Amount and Basis of Deductible PER CLAIM or PER OCCURRENCE	
Bodily Injury Liability OR	\$	\$
Property Damage Liability OR	\$	\$
Bodily Injury Liability and/or Property Damage Liability Combined	\$ 1,000	\$

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

APPLICATION OF ENDORSEMENT (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury" and "property damage", however caused):

Defense costs and expenses are subject to the deductible. For the purposes of this endorsement, defense costs and claims expenses are included as damages and any payment applies only to amounts in excess of the deductible amount stated.

A. Our obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages.

B. You may select a deductible amount on either a per claim or a per "occurrence" basis. Your selected deductible applies to the coverage option and to the basis of the deductible indicated by the placement of the deductible amount in the Schedule above. The deductible amount stated in the Schedule above applies as follows:

1. PER CLAIM BASIS. If the deductible amount indicated in the Schedule above is on a per claim basis, that deductible applies as follows:

a. Under Bodily Injury Liability Coverage, to all damages sustained by any one person because of "bodily injury";

b. Under Property Damage Liability Coverage, to all damages sustained by any one person because of "property damage"; or

c. Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages sustained by any one person because of:

(1) "Bodily injury";

(2) "Property damage"; or

(3) "Bodily injury" and "property damage" combined

as the result of any one "occurrence".

If damages are claimed for care, loss of services or death resulting at any time from "bodily injury", a separate deductible amount will be applied to each person making a claim for such damages.

With respect to "property damage", person includes an organization.

2. PER OCCURRENCE BASIS. If the deductible amount indicated in the Schedule above is on a "per occurrence" basis, that deductible amount applies as follows:

- a.** Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
- b.** Under Property Damage Liability Coverage, to all damages because of "property damage"; or
- c.** Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages because of:
 - (1)** "Bodily injury";
 - (2)** "Property damage"; or
 - (3)** "Bodily injury" and "property damage" combined

as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".

C. The terms of this insurance, including those with respect to:

- 1.** Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2.** Your duties in the event of an "occurrence", claim, or "suit"

apply irrespective of the application of the deductible amount.

D. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

**COMMERCIAL GENERAL LIABILITY
CG 26 44 12 04**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARKANSAS CHANGES – NON-BINDING ARBITRATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTION LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCT WITHDRAWAL COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

If we and the insured do not agree whether coverage is provided under this Coverage Part or Policy for a claim made against the insured, both parties may, by mutual consent, agree in writing to arbitration of the disagreement.

If both parties agree to arbitrate, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, both parties must request that selection be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and
2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county or parish in which the address shown in the Declarations is located. Local rules of law as to procedure and evidence will apply. Any decision agreed to by the arbitrators may be appealed to a court of competent jurisdiction.

IL 01 99 09 08

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ARKANSAS CHANGES - TRANSFER OF RIGHTS OF
RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
FARM LIABILITY COVERAGE FORM
FARM UMBRELLA LIABILITY POLICY
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY**

The following is added to the **Transfer Of Rights
Of Recovery Against Others To Us** Condition:

We will be entitled to recovery only after the insured ("insured") has been fully compensated for the loss or damage sustained, including expenses incurred in obtaining full compensation for the loss or damage.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF INSURED CONTRACT DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the **Definitions** section is replaced by the following:

"Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted

by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIQUOR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following replaces Exclusion **c.** under Paragraph **2. Exclusions** of **Section I - Coverage A - Bodily Injury And Property Damage Liability**:

2. Exclusions

This insurance does not apply to:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1)** Causing or contributing to the intoxication of any person, including causing or contributing to the intoxication of any person because alcoholic beverages were permitted to be brought on your premises, for consumption on your premises;
- (2)** The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3)** Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a)** The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b)** Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph **(1)**, **(2)** or **(3)** above.

This exclusion applies only if you:

- (1)** Manufacture, sell or distribute alcoholic beverages;
- (2)** Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - (a)** Requires a license;
 - (b)** Is for the purpose of financial gain or livelihood;
- (3)** Serve or furnish alcoholic beverages without a charge, if a license is required for such activity; or
- (4)** Permit any person to bring any alcoholic beverages on your premises, for consumption on your premises.

**COMMERCIAL GENERAL LIABILITY
CSGA 416 04 08**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INDEPENDENT CONTRACTORS LIMITATIONS OF COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

A. Section IV - Commercial General Liability
Conditions is amended to include the following language:

As a condition to and for coverage to be provided by this policy, you must do all of the following:

1. Obtain a formal written contract with all independent contractors and subcontractors in force at the time of the injury or damage verifying valid Commercial General Liability Insurance written on an "occurrence" basis with Limits of Liability of at least:
 - a. \$1,000,000 each "occurrence";
 - b. \$2,000,000 general aggregate, per project basis; and
 - c. \$2,000,000 Products-Completed Operations aggregate.
2. Obtain a formal written contract stating the independent contractors and subcontractors have agreed to defend, indemnify and hold you harmless from any and all liability, loss, actions, costs, including attorney fees for any claim or lawsuit presented, arising from the negli-

gent or intentional acts, errors or omissions of any independent contractor and subcontractor.

3. Verify in the contract that your independent contractors and subcontractors have named you as an additional insured on their Commercial General Liability Policy for damages because of "bodily injury", "property damage", and "personal and advertising injury" arising out of or caused by any operations and completed operations of any independent contractor or subcontractor. Coverage provided to you by any independent contractor or subcontractor must be primary and must be provided by endorsement CG 20 10 (7/04 edition) and CG 20 37 (7/04 edition), or their equivalent. Completed operations coverage must be maintained for a minimum of two years after the completion of the formal written contract.

This insurance will not apply to any loss, claim or "suit" for any liability or any damages arising out of operations or completed operations performed for you by any independent contractors or subcontractors unless all of the above conditions have been met.

COMMERCIAL GENERAL LIABILITY
CSGA 418 06 08

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF POLLUTANTS DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Paragraph **15.** of the **DEFINITIONS** Section is replaced by the following:

- 15.** "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, petroleum, petroleum products and petroleum by-products, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. "Pollutants" include but are not limited to, that which has been recognized in industry or government to be harmful or toxic to persons, property or the environment, regardless of whether the injury, damage, or contamination is caused directly or indirectly by the "pollutants" and regardless of whether:
- a.** The insured is regularly or otherwise engaged in activities which taint or degrade the environment; or
 - b.** The insured uses, generates or produces the "pollutant".

COMMERCIAL GENERAL LIABILITY
CSGA 361 06 08

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - FUNGI OR BACTERIA

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** The following exclusion is added to Paragraph **2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph **2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a.** "Bodily injury", "property damage" or "personal and advertising injury" caused directly or indirectly, in whole or in part, by any actual, alleged or threatened:

- (1) Inhalation of;
- (2) Ingestion of;
- (3) Contact with;
- (4) Absorption of;
- (5) Exposure to;
- (6) Existence of; or
- (7) Presence of,

any "fungi" or bacteria on or within a building or structure, including its contents, whether occurring suddenly or gradually;

- b.** Any loss, cost or expense associated in any way with, or arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, mitigating or disposing of, or in any way responding to, investigating, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity;

- c.** Any liability, with respect to "fungi" or bacteria, arising out of, resulting from, caused by, contributed to, or in any way related to any supervision, instruction, recommendation, warning or advice given or which should have been given in connection with:

- (1) The existence of "fungi" or bacteria;
- (2) The prevention of "fungi" or bacteria;
- (3) The remediation of "fungi" or bacteria;
- (4) Any operation described in Paragraph **A. 2. b.** above;
- (5) "Your product"; or
- (6) "Your work"; or

- d.** Any obligation to share damages with or repay any person, organization or entity, related in any way to the liability excluded in Paragraphs **A. 2. a., b.** or **c.** above;

regardless of any other cause, event, material, product and / or building component that contributed concurrently or in any sequence to the injury or damage.

However this exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for human ingestion.

- C.** For the purposes of this endorsement, **SECTION V - DEFINITIONS** is amended to include the following:

"Fungi" means any type or form of fungus, and includes, but is not limited to, any form or type of mold, mushroom or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

**COMMERCIAL GENERAL LIABILITY
CSGA 439 11 08**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF DUTIES IN THE EVENT OF
OCCURRENCE, OFFENSE, CLAIM OR SUIT CONDITION**

This endorsement modifies insurance provided under the following:

COMMERICAL GENERAL LIABILITY COVERAGE FORM

The following is added to Paragraph 2., **Duties In The Event Of Occurrence, Offense, Claim Or Suit** of **Section IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**:

- e. No insured will admit to any liability, consent to any judgment, or settle any claim or "suit" without our prior written consent.

**COMMERCIAL GENERAL LIABILITY
CG 01 42 07 11**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARKANSAS CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Pursuant to Arkansas Code Section 23-79-155:

- A.** The definition of "occurrence" includes faulty workmanship; and
- B.** The definition of "occurrence" required by this section of Arkansas law does not serve to limit or restrict the applicability of any exclusion for "bodily injury" or "property damage" under this Coverage Part.

**COMMERCIAL GENERAL LIABILITY
CG 21 47 12 07**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**COMMERCIAL GENERAL LIABILITY
CG 21 49 09 99**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL POLLUTION EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion **f.** under Paragraph **2.**, **Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

This insurance does not apply to:

f. Pollution

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

- (2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**COMMERCIAL GENERAL LIABILITY
CG 21 96 03 05**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SILICA OR SILICA-RELATED DUST EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
- b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

C. The following definitions are added to the Definitions Section:

1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

COMMERCIAL GENERAL LIABILITY
CSGA 301 03 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASSAULT OR BATTERY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

- A.** The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability and Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:

Assault Or Battery

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. An actual or threatened assault or battery whether caused by or at the instigation or direction of any insured, their employees, patrons or any other person;
2. The failure of any insured or anyone else for whom any insured is legally responsible to prevent or suppress assault or battery; or
3. The failure to provide an environment safe from assault or battery, including but not limited to the failure to provide adequate security, or failure to warn of the dangers of the environment that could contribute to assault or battery; or
4. The failure to render or secure medical treatment or care necessitated by any assault or battery; or

5. The negligent investigation or reporting or failure to report any assault or battery to proper authorities; or

6. The negligent:

- a. Employment;
- b. Supervision;
- c. Training;
- d. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by the **Assault Or Battery** exclusion above.

- B.** For the purpose of this endorsement the words assault and battery are intended to include, but are not limited to, sexual assault.

- C.** Exclusion 2.a. of the Commercial General Liability Coverage Form is deleted in its entirety and replaced by the following:

2. a. **Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured.

**COMMERCIAL GENERAL LIABILITY
CSGA 358 06 08**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – PARTICIPANTS AND CONTESTANTS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

- A.** The following exclusion is added to Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph **2. Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” to any person while practicing, instructing, supervising, officiating, training or participating in any physical exercise, game, sport, contest, race, exhibition, demonstration, special event, performance or show.

COMMERCIAL GENERAL LIABILITY
CSGA 3015 07 12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ANIMAL PARTICIPANTS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

A. The following exclusion is added to Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:

This insurance does not apply to "property damage" to any animal while practicing, training or participating in or preparing for any physical exercise, game, sport, contest, race, exhibition, demonstration, special event, parade, performance, or show.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for non-payment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination of Your Books and Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections and Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer of Your Rights and Duties Under this Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS / COMPLETED OPERATIONS LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1)** With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2)** Resulting from the "hazardous properties" of "nuclear material" and with respect to which **(a)** any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or **(b)** the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1)** The "nuclear material" **(a)** is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or **(b)** has been discharged or dispersed therefrom;
- (2)** The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3)** The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties;

"Nuclear material" means "source material", "special nuclear material" or "by-product material";

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

**COMMERCIAL GENERAL LIABILITY
CSLL 348 01 08**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION - NO STACKING OF LIMITS OF INSURANCE

This endorsement modifies insurance provided under the following:

ALL COVERAGE FORMS OR COVERAGE PARTS PROVIDING LIABILITY COVERAGE

The Conditions are amended to add the following:

If two or more liability coverage forms, coverage parts or policies issued to you by us or any company affiliated with us apply to the same claim for damages, the maximum Limits of Insurance shall not exceed the highest applicable Limits of Insurance available under any one coverage form, coverage part or policy.

This endorsement does not apply to any coverage form, coverage part or policy issued by us or an affiliated company specifically to apply as excess insurance over this policy.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

THIS ENDORSEMENT CHANGES THE ENTIRE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following language is added to Paragraph 1. a. Insuring Agreement of SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

It is agreed and understood that this insurance applies only to “bodily injury” or “property damage” that occurs at the premises designated in the **CSGA403 Commercial General Liability Premises Schedule**.

This insurance does not apply to “bodily injury” or “property damage” that occurs at any location that is not designated in the **CSGA403 Commercial General Liability Premises Liability Schedule**.

- B. The following language is added to Paragraph 1. a. Insuring Agreement of SECTION I – COVERAGES, COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY:**

It is agreed and understood that this insurance applies only to “personal and advertising injury” arising out of the ownership, maintenance or use of the premises designated in the **CSGA403 Commercial General Liability Premises Schedule**.

- C. The final paragraph of Section II- Who Is An Insured is deleted and replaced by the following:**

No person or organization is an insured:

1. With respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a named Insured in the Declaration; or
2. For any operations or “your work” that occurs at any location that is not designated in the **CSGA403 Commercial General Liability Premises Schedule**.

Jane Watson

From: Adam Franks
Sent: Tuesday, August 20, 2019 10:26 AM
To: Jane Watson
Cc: Scott Strauss
Subject: FW: Certified Policy request - CSU 0108088 - CMS#3228515

Jane,

I have a dec action that needs to be filed in the Eastern District of Arkansas. Complaint, corporate disclosure, and summons are ready to go. I want to use Jared Tramel for service. (479) 747-0902; tramelsolutions@gmail.com

F:\Cincinnati Ins Co- 3966 - Cincinnati, OH\Cincinnati Re Holland Trust 3966.190205

Thanks,

Adam

ADAM D. FRANKS
ATTORNEY AT LAW

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www.barberlawfirm.com

From: Bugher, Sheri [mailto:Sheri_Bugher@CINFIN.com]
Sent: Monday, August 19, 2019 10:35 AM
To: Adam Franks
Cc: Scott Strauss
Subject: RE: Certified Policy request - CSU 0108088 - CMS#3228515

I have reviewed and all appears fine.

Thanks.

Sheri Bugher, AIC
Associate Manager, CSU Claims
The Cincinnati Specialty Underwriters Insurance Company
P.O. Box 145496
Cincinnati, Ohio 45250
(513)870-2902
(513)371-7110 Fax

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